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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D 2003 63406

12 LAWRENCE HOSMER HURST
13 P.O. Box 1355
Blythe, California 92226

A C C U S A T I O N

14 Physical Therapist License No. PT 17230

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California (Board),
21 Department of Consumer Affairs.

22 2. On or about February 7, 1991, the Board issued Physical Therapist License
23 Number PT 17230 to Lawrence Hosmer Hurst (Respondent). This license was in full force and
24 effect at all times relevant to the charges brought herein and will expire on August 31, 2006,
25 unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board under the authority of the
28 following sections of the Business and Professions Code (Code).

1 4. Section 2609 of the Code states:

2 "The board shall issue, suspend, and revoke licenses and approvals to practice

3 physical therapy as provided in this chapter [chapter 5.7, commencing with section 2600]."

4 5. Section 2660 of the Code states:

5 "The board may, after the conduct of appropriate proceedings under the

6 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose

7 probationary conditions upon any license, certificate, or approval issued under this chapter for

8 unprofessional conduct that includes, but is not limited to, one or any combination of the

9 following causes:

10 ". . .

11 "(n) The commission of verbal abuse or sexual harassment."

12 6. California Code of Regulations, Title 16, section 1399.20, states:

13 "For the purposes of denial, suspension or revocation of a license, pursuant to

14 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be

15 substantially related to the qualifications, functions or duties of a person holding a license under

16 the Physical Therapy Practice Act if to a substantial degree it evidences present or potential

17 unfitness of a person to perform the functions authorized by the license or approval in a manner

18 consistent with the public health, safety or welfare. Such crimes or acts shall include but not be

19 limited to the following:

20 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or

21 abetting the violation of, or conspiring to violate any provision or term of the Physical

22 Therapy Practice Act. . . ."

23 7. Section 2661.5, subdivision (a) of the Code states:

24 "In any order issued in resolution of a disciplinary proceeding before the board, the

25 board may request the administrative law judge to direct any licensee found guilty of

26 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of

27 the investigation and prosecution of the case."

28

1 CAUSE FOR DISCIPLINE

2 (Commission of Verbal Abuse or Sexual Harassment)

3 8. Respondent is subject to disciplinary action under section 2660, subdivision
4 (n) of the Code and California Code of Regulations, Title 16, section 1399.20, subdivision (a) in
5 that he committed verbal abuse and sexual harassment. The circumstances are as follows:

6 A. In 2003, respondent was employed as a manager of the Physical
7 Therapy Department at Palo Verde Hospital. On March 13, 2003, during the performance
8 review of the physical therapy aide L.W., respondent asked L.W. if she thought a patient's
9 breasts were real or fake. L.W. felt uncomfortable and told respondent the question was
10 inappropriate. In another incident on March 31, 2003, the physical therapy aide E.R. was
11 looking for a patient's chart. L.W. told E.R. if the chart could not be found, it was
12 probably on respondent's desk. L.W. went into respondent's office and located the chart.
13 As respondent walked down the hall and passed L.W., he looked at her and said "screw
14 you." She became very upset and requested to change jobs. L.W. reported these two
15 incidents to the assistant administrator of the hospital on April 9, 2003.

16 B. In a written statement dated April 5, 2003, L.W. reaffirmed her
17 previous statements. She clarified that on March 13, 2003, during her evaluation,
18 respondent asked her if she thought a patient's breasts were real or implants. She again
19 stated that on March 31, 2003, while she was speaking with another co-worker, respondent
20 said "screw you" in a harsh and discordant voice. L.W. was astounded, offended and
21 appalled by his remark. On April 1, 2004, respondent signed a declaration in which she
22 reaffirmed her written statement dated April 5, 2003. On April 17, 2003, L.W. met with
23 hospital personnel. She added that when respondent had asked her about the patient's
24 breasts, he made hand movements around his chest to illustrate breasts. She also said she
25 personally witnessed respondent make vulgar tongue movements towards the physical
26 therapy aide E.R. On April 1, 2004, respondent signed a declaration in which she
27 reaffirmed her written statement dated April 5, 2003.

28 C. On April 9, 2003, the physical therapy aide E.R. told the hospital

1 administration that respondent had made sexual comments to her. He also stuck out his
2 tongue and moved it in a sexual manner towards her. He walked up behind her and would
3 stand so close that she could feel him making arm movements around her body. On one
4 occasion at Christmas, he said to E.R. "I wish I were the floor so I could look up your
5 dress." E.R. also heard respondent say "screw you" to L.W. on March 31, 2003.

6 D. On April 17, 2003, E.R. informed the hospital administration that
7 some patients told her they were uncomfortable around respondent and requested a
8 different physical therapist. Patient C.B., who was 17 years old, was so uncomfortable
9 around respondent that she brought a friend with her to therapy, and eventually stopped
10 coming. When patient H.G. came in for therapy, respondent referred to her as a "fox." On
11 April 1, 2004, the Department of Consumer Affairs investigator met with patient H.G.
12 who stated she felt uncomfortable around respondent because of what E.R. told her
13 respondent had said about her.

14 E. In interviews with hospital administration on April 16 and 18, 2003,
15 respondent admitted he said "screw you" to L.W. On April 18, 2003, he said he was
16 aware some of the patients were uncomfortable with him. In a written statement dated
17 April 16, 2003, respondent admitted that he said "screw you" to L.W. on March 31, 2003.
18 He also admitted that about six weeks prior, E.R. was bending over and he could see her
19 posterior. He told her to pull up her pants, and then he reached down and pulled up on her
20 belt loop. On April 18, 2003, he said he was aware some of the patients were
21 uncomfortable with him. In a declaration dated April 1, 2004, respondent stated that his
22 previous response to the allegations of April 16, 2003, was true and correct. He was
23 terminated effective April 21, 2003, for engaging in prohibited harassment according to
24 company policy.

25 DISCIPLINE CONSIDERATIONS

26 9. To determine the degree of discipline, if any, to be imposed on Respondent,
27 Complainant alleges that on or about May 17, 1999, in a prior disciplinary action entitled In the
28 Matter of the Accusation Against Lawrence Hosmer Hurst before the Physical Therapy Board of

1 California, in Case Number 1D-1998-62131, respondent was charged with having a disciplinary
2 action for unprofessional conduct involving sexual misconduct with a patient by another state
3 agency. The Board issued a decision effective December 15, 1999, in which Respondent's license
4 was placed on probation for two years with various terms and conditions. That decision is
5 incorporated herein by reference.

6
7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein
9 alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

10 1. Revoking or suspending Physical Therapist License Number PT 17230
11 issued to respondent Lawrence Hosmer Hurst;

12 2. Ordering respondent to pay the Physical Therapy Board of California the
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 2661.5;

15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: June 3, 2005

17
18
19 Original Signed By:
20 STEVEN K. HARTZELL
21 Executive Officer
Physical Therapy Board of California
State of California

22 Complainant
23

24 Hurst -acc.wpd
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